

REFERENCE TITLE: school tuition organizations; credits; administration

State of Arizona
Senate
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2012

SB 1048

Introduced by
Senators Murphy, Biggs, Yarbrough; Representatives Lesko, Yee

AN ACT

AMENDING SECTIONS 20-224.06, 20-224.07, 43-1089, 43-1183, 43-1184, 43-1501, 43-1502, 43-1503, 43-1504, 43-1505, 43-1507, 43-1601, 43-1602, 43-1603 AND 43-1605, ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS FOR CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-224.06, Arizona Revised Statutes, is amended to
3 read:

4 20-224.06. Premium tax credit for contributions to school
5 tuition organization; low-income scholarships

6 A. A credit is allowed against the premium tax liability incurred by
7 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
8 for the amount of voluntary cash contributions **OR TREASURY STOCK** made by the
9 insurer during the tax year to a school tuition organization.

10 B. The amount of the credit is the total amount of the insurer's
11 contributions for the tax year under subsection A of this section that is
12 preapproved by the department of revenue pursuant to section 43-1183,
13 subsection D.

14 C. The procedures, conditions, limitations, definitions and other
15 requirements prescribed by section 43-1183 and title 43, chapter 15 apply to:

- 16 1. Insurers that claim a credit under this section.
- 17 2. Claims for credit under this section.
- 18 3. School tuition organizations that receive contributions from
19 insurers for the purposes of this section.
- 20 4. Schools that qualify to receive scholarship monies contributed by
21 insurers for the purposes of this section.
- 22 5. Students who receive scholarships from monies contributed by
23 insurers for the purposes of this section.

24 D. If the allowable amount of a credit under this section exceeds the
25 insurer's state premium tax liability, the amount of the claim not used to
26 offset the premium tax liability may be carried forward as a credit against
27 the insurer's subsequent years' premium tax liability for a period not to
28 exceed five taxable years.

29 E. A credit is not allowed if the insurer designates the contribution
30 for the direct benefit of any specific student.

31 F. An insurer that claims a tax credit against state premium tax
32 liability is not required to pay any additional retaliatory tax imposed
33 pursuant to section 20-230 as a result of claiming that tax credit.

34 G. The department of insurance, with the cooperation of the department
35 of revenue, shall adopt rules and publish and prescribe forms and procedures
36 necessary for the administration of this section.

37 Sec. 2. Section 20-224.07, Arizona Revised Statutes, is amended to
38 read:

39 20-224.07. Premium tax credit for contributions to school
40 tuition organization; displaced students and
41 students with disabilities

42 A. A credit is allowed against the premium tax liability incurred by
43 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
44 for the amount of voluntary cash contributions **OR TREASURY STOCK** made by the
45 insurer during the tax year to a school tuition organization.

1 B. The amount of the credit is the total amount of the insurer's
2 contributions for the tax year under subsection A of this section that is
3 preapproved by the department of revenue pursuant to section 43-1184,
4 subsection D.

5 C. The procedures, conditions, limitations, definitions and other
6 requirements prescribed by section 43-1184 and title 43, chapter 15 apply to:

7 1. Insurers that claim a credit under this section.

8 2. Claims for credit under this section.

9 3. School tuition organizations that receive contributions from
10 insurers for the purposes of this section.

11 4. Qualified schools that participate under this section.

12 5. Students who receive scholarships from monies contributed by
13 insurers for the purposes of this section.

14 D. If the allowable amount of a credit under this section exceeds the
15 insurer's state premium tax liability, the amount of the claim not used to
16 offset the premium tax liability may be carried forward as a credit against
17 the insurer's subsequent years' premium tax liability for a period not to
18 exceed five taxable years.

19 E. A credit is not allowed if the insurer designates the contribution
20 for the direct benefit of any specific student.

21 F. An insurer that claims a tax credit against state premium tax
22 liability is not required to pay any additional retaliatory tax imposed
23 pursuant to section 20-230 as a result of claiming that tax credit.

24 G. The department of insurance, with the cooperation of the department
25 of revenue, shall adopt rules necessary for the administration of this
26 section.

27 Sec. 3. Section 43-1089, Arizona Revised Statutes, is amended to read:

28 43-1089. Credit for contributions to school tuition
29 organization

30 A. A credit is allowed against the taxes imposed by this title for the
31 amount of voluntary cash contributions by the taxpayer or on the taxpayer's
32 behalf pursuant to section 43-401, subsection I during the taxable year to a
33 school tuition organization that is certified pursuant to chapter 16 of this
34 title at the time of donation. Except as provided by subsection C of this
35 section, the amount of the credit shall not exceed:

36 1. Five hundred dollars in any taxable year for a single individual or
37 a head of household.

38 2. One thousand dollars in any taxable year for a married couple
39 filing a joint return.

40 B. A husband and wife who file separate returns for a taxable year in
41 which they could have filed a joint return may each claim only one-half of
42 the tax credit that would have been allowed for a joint return.

43 C. For each taxable year beginning on or after January 1, the
44 department shall adjust the dollar amounts prescribed by subsection A,
45 paragraphs 1 and 2 of this section according to the average annual change in
46 the metropolitan Phoenix consumer price index published by the United States

1 bureau of labor statistics, except that the dollar amounts shall not be
2 revised downward below the amounts allowed in the prior taxable year. The
3 revised dollar amounts shall be raised to the nearest whole dollar.

4 D. If the allowable tax credit exceeds the taxes otherwise due under
5 this title on the claimant's income, or if there are no taxes due under this
6 title, the taxpayer may carry the amount of the claim not used to offset the
7 taxes under this title forward for not more than five consecutive taxable
8 years' income tax liability.

9 E. The credit allowed by this section is in lieu of any deduction
10 pursuant to section 170 of the internal revenue code and taken for state tax
11 purposes.

12 F. The tax credit is not allowed if the taxpayer designates the
13 taxpayer's contribution to the school tuition organization for the direct
14 benefit of any dependent of the taxpayer or if the taxpayer designates a
15 student beneficiary as a condition of the taxpayer's contribution to the
16 school tuition organization. The tax credit is not allowed if the taxpayer,
17 with the intent to benefit the taxpayer's dependent, agrees with one or more
18 other taxpayers to designate each taxpayer's contribution to the school
19 tuition organization for the direct benefit of the other taxpayer's
20 dependent.

21 G. For the purposes of this section, a contribution, for which a
22 credit is claimed, that is made on or before the fifteenth day of the fourth
23 month following the close of the taxable year may be applied to either the
24 current or preceding taxable year and is considered to have been made on the
25 last day of that taxable year.

26 ~~H. For the purposes of this section:~~

27 ~~1. "Handicapped student" means a student who has any of the following~~
28 ~~conditions:~~

29 ~~(a) Hearing impairment.~~

30 ~~(b) Visual impairment.~~

31 ~~(c) Developmental delay.~~

32 ~~(d) Preschool severe delay.~~

33 ~~(e) Speech/language impairment.~~

34 ~~2. "Qualified school":~~

35 ~~(a) Means a nongovernmental primary school or secondary school or a~~
36 ~~preschool for handicapped students that is located in this state, that does~~
37 ~~not discriminate on the basis of race, color, handicap, familial status or~~
38 ~~national origin and that satisfies the requirements prescribed by law for~~
39 ~~private schools in this state on January 1, 1997.~~

40 ~~(b) Does not include a charter school or programs operated by charter~~
41 ~~schools.~~

42 Sec. 4. Section 43-1183, Arizona Revised Statutes, is amended to read:

43 43-1183. Credit for contributions to school tuition
44 organization

45 A. Beginning from and after June 30, 2006, a credit is allowed against
46 the taxes imposed by this title for the amount of voluntary cash **OR TREASURY**

1 STOCK contributions made by the taxpayer during the taxable year to a school
2 tuition organization that is certified pursuant to chapter 15 of this title
3 at the time of donation.

4 B. The amount of the credit is the total amount of the taxpayer's
5 contributions for the taxable year under subsection A of this section and is
6 preapproved by the department of revenue pursuant to subsection D of this
7 section.

8 C. The department of revenue:

9 1. Shall not allow tax credits under this section and section
10 20-224.06 that exceed in the aggregate a combined total of ten million
11 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
12 aggregate dollar amount of the tax credit cap from the previous fiscal year
13 shall be annually increased by twenty per cent.

14 2. Shall preapprove tax credits under this section and section
15 20-224.06 subject to subsection D of this section.

16 3. Shall allow the tax credits under this section and section
17 20-224.06 on a first come, first served basis.

18 D. For the purposes of subsection C, paragraph 2 of this section,
19 before making a contribution to a school tuition organization, the taxpayer
20 under this title or title 20 must notify the school tuition organization of
21 the total amount of contributions OR THE CASH BASIS OF TREASURY STOCK
22 CONTRIBUTIONS that the taxpayer intends to make to the school tuition
23 organization. Before accepting the contribution, the school tuition
24 organization shall request preapproval from the department of revenue for the
25 taxpayer's intended contribution amount. The department of revenue shall
26 preapprove or deny the requested amount within twenty days after receiving
27 the request from the school tuition organization. If the department of
28 revenue preapproves the request, the school tuition organization shall
29 immediately notify the taxpayer, and the department of insurance in the case
30 of a credit under section 20-224.06, that the requested amount was
31 preapproved by the department of revenue. In order to receive a tax credit
32 under this subsection, the taxpayer shall make the contribution to the school
33 tuition organization within ~~ten~~ TWENTY days after receiving notice from the
34 school tuition organization that the requested amount was preapproved. If
35 the school tuition organization does not receive the preapproved contribution
36 from the taxpayer within the required ~~ten~~ TWENTY days, the school tuition
37 organization shall immediately notify the department of revenue, and the
38 department of insurance in the case of a credit under section 20-224.06, and
39 the department of revenue shall no longer include this preapproved
40 contribution amount when calculating the limit prescribed in subsection C,
41 paragraph 1 of this section.

42 E. If the allowable tax credit exceeds the taxes otherwise due under
43 this title on the claimant's income, or if there are no taxes due under this
44 title, the taxpayer may carry the amount of the claim not used to offset the
45 taxes under this title forward for not more than five consecutive taxable
46 years' income tax liability.

1 F. Co-owners of a business, including corporate partners in a
2 partnership, may each claim only the pro rata share of the credit allowed
3 under this section based on the ownership interest. The total of the credits
4 allowed all such owners may not exceed the amount that would have been
5 allowed a sole owner.

6 G. The credit allowed by this section is in lieu of any deduction
7 pursuant to section 170 of the internal revenue code and taken for state tax
8 purposes.

9 H. A taxpayer shall not claim a credit under this section and also
10 under section 43-1184 with respect to the same contribution.

11 I. The tax credit is not allowed if the taxpayer designates the
12 taxpayer's contribution to the school tuition organization for the direct
13 benefit of any specific student.

14 J. The department of revenue, with the cooperation of the department
15 of insurance, shall adopt rules and publish and prescribe forms and
16 procedures necessary for the administration of this section.

17 ~~K. For the purposes of this section, "qualified school":~~

18 ~~1. Means a nongovernmental primary school or secondary school:~~

19 ~~(a) That is located in this state, that does not discriminate on the~~
20 ~~basis of race, color, handicap, familial status or national origin and that~~
21 ~~satisfies the requirements prescribed by law for private schools in this~~
22 ~~state on January 1, 2005.~~

23 ~~(b) That annually administers and makes available to the public the~~
24 ~~aggregate test scores of its students on a nationally standardized~~
25 ~~norm-referenced achievement test, preferably the Arizona instrument to~~
26 ~~measure standards test administered pursuant to section 15-741.~~

27 ~~(c) That requires all teaching staff and any personnel that have~~
28 ~~unsupervised contact with students to be fingerprinted.~~

29 ~~2. Does not include a charter school or programs operated by charter~~
30 ~~schools.~~

31 Sec. 5. Section 43-1184, Arizona Revised Statutes, is amended to read:

32 43-1184. Credit for contributions to school tuition
33 organization; displaced students; students with
34 disabilities

35 A. Beginning from and after June 30, 2009, a credit is allowed against
36 the taxes imposed by this title for the amount of voluntary cash **OR TREASURY**
37 **STOCK** contributions made by the taxpayer during the taxable year to a school
38 tuition organization that is certified pursuant to chapter 15 of this title
39 at the time of donation.

40 B. The amount of the credit is the total amount of the taxpayer's
41 contributions for the taxable year under subsection A of this section and is
42 preapproved by the department of revenue pursuant to subsection D of this
43 section.

1 C. The department of revenue:

2 1. Shall not allow tax credits under this section and section
3 20-224.07 that exceed in the aggregate a combined total of five million
4 dollars in any fiscal year.

5 2. Shall preapprove tax credits under this section and section
6 20-224.07 subject to subsection D of this section.

7 3. Shall allow the tax credits under this section and section
8 20-224.07 on a first come, first served basis.

9 D. For the purposes of subsection C, paragraph 2 of this section,
10 before making a contribution to a school tuition organization, the taxpayer
11 under this title or title 20 must notify the school tuition organization of
12 the total amount of contributions **OR THE CASH BASIS OF TREASURY STOCK**
13 **CONTRIBUTIONS** that the taxpayer intends to make to the school tuition
14 organization. Before accepting the contribution, the school tuition
15 organization shall request preapproval from the department of revenue for the
16 taxpayer's intended contribution amount. The department of revenue shall
17 preapprove or deny the requested amount within twenty days after receiving
18 the request from the school tuition organization. If the department of
19 revenue preapproves the request, the school tuition organization shall
20 immediately notify the taxpayer that the requested amount was preapproved by
21 the department of revenue. In order to receive a tax credit under this
22 subsection, the taxpayer shall make the contribution to the school tuition
23 organization within ~~ten~~ **TWENTY** days after receiving notice from the school
24 tuition organization that the requested amount was preapproved. If the
25 school tuition organization does not receive the preapproved contribution
26 from the taxpayer within the required ~~ten~~ **TWENTY** days, the school tuition
27 organization shall immediately notify the department of revenue and the
28 department shall no longer include this preapproved contribution amount when
29 calculating the limit prescribed in subsection C, paragraph 1 of this
30 section.

31 E. If the allowable tax credit exceeds the taxes otherwise due under
32 this title on the claimant's income, or if there are no taxes due under this
33 title, the taxpayer may carry the amount of the claim not used to offset the
34 taxes under this title forward for not more than five consecutive taxable
35 years' income tax liability.

36 F. Co-owners of a business, including corporate partners in a
37 partnership, may each claim only the pro rata share of the credit allowed
38 under this section based on the ownership interest. The total of the credits
39 allowed all such owners may not exceed the amount that would have been
40 allowed a sole owner.

41 G. The credit allowed by this section is in lieu of any deduction
42 pursuant to section 170 of the internal revenue code and taken for state tax
43 purposes.

44 H. A taxpayer shall not claim a credit under this section and also
45 under section 43-1183 with respect to the same contribution.

1 I. The tax credit is not allowed if the taxpayer designates the
2 taxpayer's contribution to the school tuition organization for the direct
3 benefit of any specific student.

4 J. The department of revenue shall adopt rules necessary for the
5 administration of this section.

6 ~~K. For the purposes of this section, "qualified school":~~

7 ~~1. Means a nongovernmental primary school or secondary school or a~~
8 ~~preschool for handicapped students that is located in this state, that does~~
9 ~~not discriminate on the basis of race, color, handicap, familial status or~~
10 ~~national origin and that satisfies the requirements prescribed by law for~~
11 ~~private schools in this state on January 1, 2009.~~

12 ~~2. Does not include a charter school or programs operated by charter~~
13 ~~schools.~~

14 Sec. 6. Section 43-1501, Arizona Revised Statutes, is amended to read:

15 43-1501. Definitions

16 In this chapter, unless the context otherwise requires:

17 1. "Allocate" includes reserving money for an award of a multiyear
18 educational scholarship or tuition grant for a specific student.

19 2. "Custodian" means a resident of this state who is a parent or an
20 authorized out-of-home care provider or, if none, the legal guardian of a
21 qualified student, as defined in section 43-1505.

22 3. "Fiscal year" means the fiscal year of the state as prescribed in
23 section 35-102.

24 4. "Qualified school" ~~has the same meaning prescribed in section~~
25 ~~43-1183 or 43-1184, as applicable~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO
26 STUDENTS WITH DISABILITIES, NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY
27 SCHOOL THAT IS LOCATED IN THIS STATE AND THAT DOES NOT DISCRIMINATE ON THE
28 BASIS OF RACE, COLOR, DISABILITY, FAMILIAL STATUS OR NATIONAL ORIGIN.
29 QUALIFIED SCHOOL DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY A
30 CHARTER SCHOOL.

31 Sec. 7. Section 43-1502, Arizona Revised Statutes, is amended to read:

32 43-1502. Certification as a school tuition organization

33 A. A nonprofit organization in this state that is exempt or has
34 applied for exemption from federal taxation under section 501(c)(3) of the
35 internal revenue code may apply to the department of revenue for
36 certification as a school tuition organization, and the department shall
37 certify the school tuition organization if it meets the requirements
38 prescribed by this chapter. An organization must apply for certification on
39 a form prescribed and furnished on request by the department.

40 B. The department shall:

41 1. Maintain a public registry of currently certified school tuition
42 organizations.

43 2. Make the registry available to the public on request.

44 3. Post the registry on the department's official website.

1 C. The department shall send written notice by certified mail to a
2 school tuition organization if the department determines that the school
3 tuition organization has engaged in any of the following activities:

4 1. Failing or refusing to allocate at least ninety per cent of annual
5 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06,
6 20-224.07, 43-1183 AND 43-1184 for educational scholarships or tuition
7 grants.

8 2. Failing or refusing to file the annual reports required by section
9 43-1506.

10 3. Limiting availability of scholarships to students of only one
11 school.

12 4. Encouraging, facilitating or knowingly permitting taxpayers to
13 engage in actions prohibited by this article.

14 5. KNOWINGLY COLLUDING WITH ANY OTHER SCHOOL TUITION ORGANIZATION TO
15 CIRCUMVENT THE LIMITS OF SECTION 43-1504, SUBSECTION C.

16 D. A school tuition organization that receives notice from the
17 department pursuant to subsection C of this section has ninety days to
18 correct the violation identified by the department in the notice. If a
19 school tuition organization fails or refuses to comply after ninety days, the
20 department may remove the organization from the list of certified school
21 tuition organizations and shall make available to the public notice of
22 removal as soon as possible. An organization that is removed from the list
23 of certified school tuition organizations must notify any taxpayer who
24 attempts to make a contribution that the contribution is not eligible for the
25 tax credit and offer to refund all donations received after the date of the
26 notice of termination of certification.

27 E. A school tuition organization may request an administrative hearing
28 on the revocation of its certification as provided by title 41, chapter 6,
29 article 10. Except as provided in section 41-1092.08, subsection H, a
30 decision of the department is subject to judicial review pursuant to title
31 12, chapter 7, article 6.

32 Sec. 8. Section 43-1503, Arizona Revised Statutes, is amended to read:
33 43-1503. Operational requirements for school tuition
34 organizations

35 A. A certified school tuition organization must be established to
36 receive contributions from taxpayers for the purposes of income tax credits
37 under sections 43-1183 and 43-1184 and insurance premium tax credits under
38 sections 20-224.06 and 20-224.07 and to pay educational scholarships or
39 tuition grants to allow students to attend any qualified school of their
40 parents' or custodians' choice.

41 B. To be eligible for certification and retain certification, the
42 school tuition organization:

43 1. Must allocate at least ninety per cent of its annual revenue FROM
44 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 43-1183
45 AND 43-1184 for educational scholarships or tuition grants.

1 school year, the school shall refund a prorated amount of the educational
2 scholarship or tuition grant to the school tuition organization that issued
3 the scholarship or grant. The school tuition organization shall allocate any
4 refunds it receives under this subsection for educational scholarships or
5 tuition grants ~~in the following year.~~

6 E. Students who receive an educational scholarship or tuition grant
7 under this section shall be allowed to attend any qualified school of their
8 parents' choice.

9 F. The department of revenue, with the cooperation of the department
10 of insurance, shall adopt rules and publish and prescribe forms and
11 procedures necessary for the administration of this section.

12 Sec. 10. Section 43-1505, Arizona Revised Statutes, is amended to
13 read:

14 43-1505. Special provisions; corporate donations for displaced
15 students and students with disabilities; definition

16 A. A school tuition organization that receives contributions for the
17 purposes of section ~~28-224.07~~ 20-224.07 or 43-1184 must use at least ninety
18 per cent of those contributions to provide educational scholarships or
19 tuition grants to qualified students ~~who either~~ TO WHOM ANY OF THE FOLLOWING
20 APPLIES:

21 1. Received a grant or scholarship under title 15, chapter 8, article
22 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
23 year.

24 2. Attended a governmental primary or secondary school as a full-time
25 student as defined in section 15-901 OR ATTENDED A PRESCHOOL PROGRAM THAT
26 OFFERS SERVICES TO STUDENTS WITH DISABILITIES AT A GOVERNMENTAL SCHOOL for at
27 least ~~the first one hundred~~ NINETY days of the prior fiscal year OR ONE FULL
28 SEMESTER and transferred from a governmental ~~primary or secondary~~ school to a
29 qualified school.

30 3. ENROLLED IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A
31 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES.

32 4. IS THE DEPENDENT OF A MEMBER OF THE ARMED FORCES OF THE UNITED
33 STATES WHO IS STATIONED IN THIS STATE PURSUANT TO MILITARY ORDERS.

34 ~~3-~~ 5. Qualified for an educational scholarship or tuition grant under
35 paragraph 1, ~~or~~ 2, 3 OR 4 OF THIS SUBSECTION if the qualified student
36 continues to attend a qualified school in a subsequent year.

37 B. The amount of an educational scholarship or a tuition grant that is
38 issued by a school tuition organization under this section shall not exceed
39 the cost of tuition for the student to attend the qualified school or ninety
40 per cent of the amount of state aid that otherwise would be computed for the
41 student as provided in title 15, chapter 9, article 5, whichever is less. On
42 request from a school tuition organization, the department of education shall
43 provide to the school tuition organization in a timely manner the amount
44 computed for the student under this subsection that represents the ninety per
45 cent limitation prescribed in this subsection.

1 C. A school tuition organization shall require that student
2 beneficiaries use the educational scholarships or tuition grants on a
3 full-time basis. If a child leaves the school before completing an entire
4 school year, the school shall refund a prorated amount of the educational
5 scholarship or tuition grant to the school tuition organization that issued
6 the scholarship or grant. The school tuition organization shall allocate any
7 refunds it receives under this subsection for educational scholarships or
8 tuition grants ~~in the following year~~.

9 D. Qualified students who receive an educational scholarship or
10 tuition grant under this section shall be allowed to attend any qualified
11 school of their custodians' choice.

12 E. For the purposes of this section, "qualified student" means a
13 student who has been either:

14 1. Placed in foster care pursuant to title 8, chapter 5 at any time
15 before the student graduates from high school or obtains a general
16 equivalency diploma.

17 2. Identified as having a disability under section 504 of the
18 rehabilitation act (29 United States Code section 794) or identified **AT ANY**
19 **TIME** by a school district as a child with a disability as defined in section
20 15-761 or a child with a disability who is eligible to receive services from
21 a school district under section 15-763.

22 Sec. 11. Section 43-1507, Arizona Revised Statutes, is amended to
23 read:

24 **43-1507. Audits and financial reviews**

25 A. On or before September 30 of each year, each school tuition
26 organization that received one million dollars or more in total donations in
27 the previous fiscal year shall provide for a financial audit of the
28 organization. The audit must be conducted in accordance with generally
29 accepted auditing standards and must evaluate the organization's compliance
30 with ~~the fiscal requirements of this article~~ **SECTION 43-1503, SUBSECTION B,**
31 **PARAGRAPH 1**. The audit must be conducted by an independent certified public
32 accountant licensed in this state. The certified public accountant and the
33 firm the certified public accountant is affiliated with shall be independent
34 with respect to the organization, its officers and directors, services
35 performed and all other independent relationships prescribed by generally
36 accepted ~~accounting~~ **AUDITING** standards.

37 B. On or before September 30 of each year, each school tuition
38 organization that received less than one million dollars in total donations
39 in the previous fiscal year shall provide for a financial review of the
40 organization. The review must be conducted in accordance with standards for
41 accounting and review services and must evaluate the organization's
42 compliance with the fiscal requirements of this article. The review must be
43 conducted by an independent certified public accountant licensed in this
44 state. The certified public accountant and the firm the certified public
45 accountant is affiliated with shall be independent with respect to the
46 organization, its officers and directors, services performed and all other

1 independent relationships prescribed by generally accepted ~~accounting~~
2 AUDITING standards.

3 C. Within five days after receiving the audit or financial review, the
4 school tuition organization shall file a signed copy of the audit or
5 financial review with the department.

6 D. The school tuition organization shall pay the fees and costs of the
7 certified public accountant under this section from the organization's
8 operating monies. The fees and costs shall be excluded from the calculation
9 of total revenues spent on scholarships and tuition grants.

10 Sec. 12. Section 43-1601, Arizona Revised Statutes, is amended to
11 read:

12 43-1601. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Allocate" includes reserving money for an award of a multiyear
15 educational scholarship or tuition grant for a specific student.

16 2. "Fiscal year" means the fiscal year of the state as prescribed in
17 section 35-102.

18 3. "STUDENTS WITH DISABILITIES" MEANS STUDENTS WHO HAVE ANY OF THE
19 FOLLOWING CONDITIONS:

20 (a) HEARING IMPAIRMENT.

21 (b) VISUAL IMPAIRMENT.

22 (c) DEVELOPMENTAL DELAY.

23 (d) PRESCHOOL SEVERE DELAY.

24 (e) SPEECH/LANGUAGE IMPAIRMENT.

25 ~~3-~~ 4. "Qualified school" ~~has the same meaning prescribed in section~~
26 ~~43-1089~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES,
27 NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY SCHOOL THAT IS LOCATED IN THIS
28 STATE AND THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, DISABILITY,
29 FAMILIAL STATUS OR NATIONAL ORIGIN. QUALIFIED SCHOOL DOES NOT INCLUDE A
30 CHARTER SCHOOL OR PROGRAMS OPERATED BY A CHARTER SCHOOL.

31 Sec. 13. Section 43-1602, Arizona Revised Statutes, is amended to
32 read:

33 43-1602. Certification as a school tuition organization

34 A. A nonprofit organization in this state that is exempt or has
35 applied for exemption from federal taxation under section 501(c)(3) of the
36 internal revenue code may apply to the department of revenue for
37 certification as a school tuition organization, and the department shall
38 certify the school tuition organization if it meets the requirements
39 prescribed by this chapter. An organization must apply for certification on
40 a form prescribed and furnished on request by the department.

41 B. The department shall:

42 1. Maintain a public registry of currently certified school tuition
43 organizations.

44 2. Make the registry available to the public on request.

45 3. Post the registry on the department's official website.

1 C. The department shall send written notice by certified mail to a
2 school tuition organization if the department determines that the school
3 tuition organization has engaged in any of the following activities:

4 1. Failing or refusing to allocate at least ninety per cent of annual
5 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for
6 educational scholarships or tuition grants.

7 2. Failing or refusing to file the annual reports required by section
8 43-1604.

9 3. Limiting availability of scholarships to students of only one
10 school.

11 4. Encouraging, facilitating or knowingly permitting taxpayers to
12 engage in actions prohibited by this article.

13 5. Awarding, restricting or reserving educational scholarships or
14 tuition grants for use by a particular student based solely on the
15 recommendation of the donor.

16 D. A school tuition organization that receives notice from the
17 department pursuant to subsection C of this section has ninety days to
18 correct the violation identified by the department in the notice. If a
19 school tuition organization fails or refuses to comply after ninety days, the
20 department may remove the organization from the list of certified school
21 tuition organizations and shall make available to the public notice of
22 removal as soon as possible. An organization that is removed from the list
23 of certified school tuition organizations must notify any taxpayer who
24 attempts to make a contribution that the contribution is not eligible for the
25 tax credit and offer to refund all donations received after the date of the
26 notice of termination of certification.

27 E. A school tuition organization may request an administrative hearing
28 on the revocation of its certification as provided by title 41, chapter 6,
29 article 10. Except as provided in section 41-1092.08, subsection H, a
30 decision of the department is subject to judicial review pursuant to title
31 12, chapter 7, article 6.

32 Sec. 14. Section 43-1603, Arizona Revised Statutes, is amended to
33 read:

34 43-1603. Operational requirements for school tuition
35 organizations; notice; qualified schools

36 A. A certified school tuition organization must be established to
37 receive contributions from taxpayers for the purposes of income tax credits
38 under section 43-1089 and to pay educational scholarships or tuition grants
39 to allow students to attend any qualified school of their parents' choice.

40 B. To be eligible for certification and retain certification, the
41 school tuition organization:

42 1. Must allocate at least ninety per cent of its annual revenue FROM
43 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for educational
44 scholarships or tuition grants.

45 2. Shall not limit the availability of educational scholarships or
46 tuition grants to only students of one school.

1 with respect to the organization, its officers and directors, services
2 performed and all other independent relationships prescribed by generally
3 accepted auditing standards.

4 B. On or before September 30 of each year, each school tuition
5 organization that received less than one million dollars in total donations
6 in the previous fiscal year shall provide for a financial review of the
7 organization. The review must be conducted in accordance with standards for
8 accounting and review services and must evaluate the organization's
9 compliance with the fiscal requirements of this article. The review must be
10 conducted by an independent certified public accountant licensed in this
11 state. The certified public accountant and the firm the certified public
12 accountant is affiliated with shall be independent with respect to the
13 organization, its officers and directors, services performed and all other
14 independent relationships prescribed by generally accepted auditing
15 standards.

16 C. Within five days after receiving the audit or financial review the
17 school tuition organization shall file a signed copy of the audit or
18 financial review with the department.

19 D. The school tuition organization shall pay the fees and costs of the
20 certified public accountant under this section from the organization's
21 operating monies. The fees and costs shall be excluded from the calculation
22 of total revenues spent on scholarships and tuition grants.